IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 23436 of 2004

Between:

Smt.M.Shoba Devi, W/o.Late M.Srinivasa Murthy,
Ummareddypalli, Muddanur (Post & Mandal),
Cuddapah District A.P.

..... PETITIONER

AND

1 The vice Chairman & Managing Director, APSRTC,

Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC, Cuddapah Region

Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in rejecting the case of the petitioner for appointment in service on compassionate grounds vide proc. in No.DSP/876(5)/2000 - RM'C'Dis, dt.14-06-2002 as arbitrary, illegal, unreasonable, discriminatory and without jurisdiction and violative of Articles 14, 16 and 21 of the constitution of India and consequently direct the respondents to consider the case of the petitioner for appointment in service on compassionate grounds.

Counsel for the Petitioner: MS: HEMA JAISWAL

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following:

ORDER:

Questioning the action of the respondents in rejecting the case of the petitioner for appointment on compassionate grounds, the present writ petition is filed.

The impugned proceedings dated 14.06.2002 is under challenge. The respondents considered the case of the petitioner and came to the conclusion that she does not have any requisite qualifications to the posts of Driver/Conductor/Shramik, and therefore, she was directed to avail Additional Monetary Benefit Fund in lieu of employment as per rules in force and as per her eligibility.

The learned counsel for the petitioner contended that the husband of the petitioner died on 10.07.1998 and a person, as per the rules governing the appointment on compassionate grounds, must be able to read and write. The scheme was amended in the year 1999 and the minimum educational qualifications are required for a post of Driver/Conductor/Shramik on compassionate grounds. Therefore, the case of the petitioner has to be considered in accordance with Regulations, governing the appointment on compassionate grounds, as prevailing as on the date of death of the deceased.

On the other hand, the learned standing Counsel appearing for the respondents contended that as the petitioner does not possess minimum educational qualifications, she is not entitled to give any appointment on compassionate grounds, and therefore, the impugned proceedings have been passed rejecting her case, and alternatively, the petitioner as can avail the Additional Monetary Benefit Fund in lieu of compassionate appointment.

The question is whether the petitioner is eligible for appointment on compassionate grounds for any post as on the date of death of the deceased has to be taken into consideration. The petitioner can able

to read and write, and therefore, she is entitled to be appointed in any suitable post on compassionate grounds, in case of any clear v a c a n c y. Therefore, possessing of minimum educational qualifications is not a bar for the petitioner since her case is covered prior to 1999 where her husband died. At the relevant point of time it is not in dispute that a person who is able to read and write can be appointed on compassionate grounds, of course, subject to availability of vacancy.

Therefore, the Writ Petition is disposed of, setting aside the impugned proceedings dated 14.06.2002, and the respondents are directed to consider the case of the petitioner for appointment on compassionate grounds in accordance with Regulations, that are governing prior to 1999, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

Note:

Issue CC in one week

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Vice Chairman and Managing Director,

APSRTC, Musheerabad, Hyderabad

2. The Regional Manager, APSRTC,

Cuddapah Region, Cuddapah District

3. Two CD copies.